

The Honorable Richard A. Jones  
The Honorable James P. Donohue

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KYLE LYDELL CANTY, )  
vs. )  
CITY OF SEATTLE, et. al., )  
Plaintiff, ) No. 2:16-cv-01655-RAJ-JPD  
Defendants. )  
) NOTICE-WARNING TO PLAINTIFF  
)  
) **Summary Judgment Noted for:**  
) **Friday October 27, 2017**  
)

TO: Kyle Lydell Canty, Plaintiff.

## **NOTICE - WARNING**

The defendants have made a motion for summary judgment by which they seek to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact—that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly

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## RAND NOTICE - 1

supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.

## **Federal Rules of Civil Procedure**

### **Rule 56. Summary Judgment**

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense--or the part of each claim or defense--on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) Procedures.

(1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

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(2) Objection That a Fact Is Not Supported by Admissible Evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) Materials Not Cited. The court need consider only the cited materials, but it may consider other materials in the record.

(4) Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts Are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
  - (2) allow time to obtain affidavits or declarations or to take discovery; or
  - (3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

- (1) give an opportunity to properly support or address the fact;
  - (2) consider the fact undisputed for purposes of the motion;
  - (3) grant summary judgment if the motion and supporting materials--including the facts considered undisputed--show that the movant is entitled to it; or
  - (4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:

- (1) grant summary judgment for a nonmovant;
  - (2) grant the motion on grounds not raised by a party; or
  - (3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact--including an item of damages or other relief--that is not genuinely in dispute and treating the fact as established in the case.

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1 (h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration  
2 under this rule is submitted in bad faith or solely for delay, the court--after notice and a  
3 reasonable time to respond--may order the submitting party to pay the other party the reasonable  
expenses, including attorney's fees, it incurred as a result. An offending party or attorney may  
also be held in contempt or subjected to other appropriate sanctions.

4 DATED this 29<sup>th</sup> day of September, 2017.

5 DANIEL T. SATTERBERG  
6 King County Prosecuting Attorney

7 By: /s/ Samantha D. Kanner  
8 SAMANTHA D. KANNER, WSBA #36943  
9 Senior Deputy Prosecuting Attorney  
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1                   **CERTIFICATE OF FILING AND SERVICE**  
2

3                   I hereby certify that on September 29<sup>th</sup>, 2017, I electronically filed the foregoing  
4 document(s) with the Clerk of the Court using the CM/ECF E-Filing System, thus electronically  
5 serving counsel for City of Seattle Defendants, and notifying of such filing to the following:

6                   **Kyle Lydell Carty**  
7                   **DOC #401358**  
8                   **Washington Corrections Center**  
9                   **P.O. Box 900**  
10                  **Shelton, WA 98584**  
11                  **DOCWCCInmateFederal@DOC1.WA.GOV**

12                  I certify under penalty of perjury under the laws of the United States and the State of  
13 Washington that the foregoing is true and correct.

14                  DATED this 29<sup>th</sup> day of September, 2017.

15  
16                  **/S/LINDSEY MACALALAD**  
17                  LINDSEY MACALALAD  
18                  Legal Secretary